

## CHAPTER 9

### SECTION 10.1B

# BENEFICIARY ELIGIBILITY RELATED TO PHYSICAL OR EMOTIONAL ABUSE

Issue Date: September 9, 1993

Authority: [32 CFR 199.3](#), PL. 99-661 PL. 102-484, Title 10 U.S.C., Chapter 55

---

#### I. ISSUE

When are family members eligible for TRICARE/CHAMPUS benefits as a result of physical or emotional abuse?

#### II. BACKGROUND

Section 652 (d) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), authorized family members of a person on active duty who receives a dishonorable or bad-conduct discharge, or dismissal from a Uniformed Service as a result of a court-martial conviction for an offense involving physical or emotional abuse, or was administratively discharged as a result of such an offense, to receive limited continuation of TRICARE/CHAMPUS benefits for care related to the physical or emotional abuse for a period of one year (12 months) following the person's separation from the Uniformed Service.

Section 1072, of the National Defense Authorization Act for Fiscal Year 1993, (Public Law 102-484), authorized TRICARE/CHAMPUS benefits for the following classes of beneficiary who are the family members of members or former members who have had their entitlement to receive retired pay on the basis of years of service terminated because of misconduct involving physical or emotional abuse:

- A. Spouses and former spouses;
- B. Children under age 18;
- C. Certain incapacitated children.

#### III. POLICY

A. Effective November 14, 1986, family members (i.e., eligible spouses or children), of a person who receives a dishonorable or bad-conduct discharge or dismissal from a Uniformed Service as a result of a court-martial conviction for an offense involving physical or emotional abuse or was administratively discharged as a result of such an offense are entitled to benefits under both the Basic Program or Program for Persons with Disabilities (formerly known as Program for the Handicapped), for medical or adjunctive dental care for problems

associated with the physical or emotional abuse for a period of up to one year (12 months) following the person's separation from the Uniformed Service.

B. Effective October 23, 1992, TRICARE/CHAMPUS benefits may be extended for:

1. A spouse or former spouse who is receiving payments from the Department of Defense Military Retirement fund under 10 U.S.C. 1408(h), pursuant to a court order and whose eligibility is based on:

a. Being the spouse or former spouse of a member or former member who, while a member of the Uniformed Services and after becoming eligible to be retired from the Uniformed Services on the basis of years of service, has eligibility to receive retired pay terminated as a result of misconduct while a member involving abuse of a spouse or dependent child; and

b. The spouse or former spouse:

(1) Was married to the member or former member for a period of ten (10) years or more during which the member or former member performed at least ten (10) years of service creditable in determining the member's or former member's eligibility for retired pay; and

(2) Was the victim of the abuse and was married to the member or former member at the time of that abuse; or

(3) Is the natural or adoptive parent of a dependent child of the member or former member who was the victim of the abuse;

2. A dependent child:

a. Of a member or former member, who while a member or former member of the armed forces and after becoming eligible to be retired from the Uniformed Services on the basis of years of service, has eligibility to receive retired pay terminated as a result of misconduct while a member involving abuse of a spouse or dependent child; and

b. The dependent child was a member of the household of the member or former member at the time of the misconduct; and

c. Is an unmarried legitimate child, including an adopted child or stepchild, of the member or former member, and

*NOTE: For purposes of this section ONLY, a dependent child is an unmarried legitimate child, including an adopted child or a stepchild of the member or former member who:*

d. Is under 18 years of age; or

e. Is incapable of self support because of a mental or physical incapacity that existed before becoming 18 years of age and is dependent on the member or former member for over one-half of the child's support; or

f. If enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense (for the purpose of 10 U.S.C. 1408(h)), is under 23 years of age, and is dependent on the member or former member for over one-half of the child's support.

C. Claims received from family members who qualify for TRICARE/CHAMPUS benefits under the above eligibility provisions shall be processed by the contractors following the guidelines outlined below under "Policy Considerations".

#### IV. POLICY CONSIDERATIONS

A. The contractors shall process all claims received for family members of a person who receives a dishonorable or bad-conduct discharge, or dismissal from a Uniformed Service as a result of a court-martial conviction for an offense involving physical or emotional abuse as follows:

1. Defense Enrollment Eligibility System (DEERS) verification of eligibility will not be required. These family members will not be listed on DEERS because their TRICARE/CHAMPUS eligibility period is limited to one year.

2. Eligibility for these family members will be determined by the appropriate Administering Secretary utilizing the system established to manage Secretarial Designees. Under this system, eligibility is designated by letter from the appropriate Administering Secretary. For family members of abuse an additional paragraph will be added to the usual Designee letter which describes the period of eligibility, and the type of care the family member is entitled to receive. Contractors are to use this Designee letter to verify eligibility. At a minimum, the letter must contain the beneficiary and sponsor names, sponsor social security number, dates of eligibility, and type of care authorized, [i.e., treatment of mental problems associated with battering/neglect, treatment of broken bones, etc., (see sample letter attached)]. A copy of this letter should be attached to each claim.

3. The Designee letter is to be used by contractors to verify that the claims received are for services related to medical or adjunctive dental care for conditions associated with the physical or emotional abuse for the period of designated eligibility for care beginning on or after November 14, 1986.

4. Claims for services or supplies prior to November 14, 1986, not related to the specific abuse, or without proper verification of eligibility should be denied by the contractor.

5. Contractors shall notify the claimant in writing of the reason for denial and include instructions to contact the nearest military personnel office for assistance in obtaining a Designee letter from the appropriate Service Secretary and/or for assistance in resolving denials related to eligibility issues.

6. Claims for this class of family members shall be considered "active duty" for cost-sharing purposes and Program for the Handicapped eligibility.

7. Cost-sharing may be extended for benefits under either the Program for Persons with Disabilities or the Basic Program.

8. Claims for services and supplies are to be reviewed following all current regulatory provisions, limitations, exclusions and processing instructions.

9. For information regarding the collection of deductibles and cost-shares see [OPM Part Two, Chapter 1, Section VI](#).

B. Contractors shall process claims received for family members of a person (member or former member) who has had their entitlement to receive retirement pay terminated because of misconduct involving physical or emotional abuse as follows:

1. Contractors shall use the Defense Enrollment Eligibility Reporting System (DEERS) to verify eligibility.

2. TRICARE/CHAMPUS benefits are limited to coverage of medically necessary services and supplies provided under the Basic Program on or after October 23, 1992.

3. Claims for services and supplies provided prior to October 23, 1992, should be denied by the claims processor as “beneficiary not eligible”. The claims processor should advise the claimant to contact the closest military personnel office for assistance in resolving the eligibility issue.

4. Claims shall be processed as “retired” for cost-sharing purposes.

5. Claims for services and supplies provided on or after October 23, 1992, should be reviewed following current regulatory provisions, limitations, exclusion and processing instructions.

6. For spouses and former spouses, eligibility shall last as long as the spouse or former spouse is receiving payments from the DoD Military Retirement Fund or until eligibility would be terminated under one of the provisions of [Section 12.1](#) of this chapter.

7. If a spouse or former spouse remarries, eligibility is terminated. However, if the marriage is terminated for any reason, eligibility will be reinstated.

8. For dependent children, eligibility will last as long as they meet the requirements of [paragraph III.B.](#) under POLICY above.

C. For more specific information on additional eligibility requirements for qualifying as an eligible spouse or child or for a specific class of eligible spouses and children refer to [Section 1.1A](#), [Section 1.1B](#), [Section 8.1A](#), [Section 8.1B](#), [Section 8.1C](#), and [Section 10.1C](#).

D. For circumstances which may result in a spouse or child losing eligibility, see [Chapter 9, Section 12.1](#).

- END -